IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

WP(C).No. 30478 of 2005(C)

EP.3/05 IN OS.64/2003 of MUNSIFF'S COURT, KANJIRAPPALLY

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PETITIONER:

MADHUSOODANAN,
CHANDRA VILASAM, CHIRAKADAVU CENTRE, PONKUNNAM.

BY ADV. SRI.DILIP MOHAN

RESPONDENT:

A.R. CHANDRA BABU, S/O.RAGHAVAN NAIR,
AZHAKATHU, PONKUNNAM P.O.

BY ADV. SRI.LIJI.J.VADAKEDOM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.30478/05

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF OBJECTION FILED BY PETR.

EXT.P2 – TRUE COPY OF EA FILED IN EP.3/05 IN O.S.64/03

EXT.P3 – TRUE COPY OF SALARY CERTIFICATE OF PETR.

EXT.P4 – TRUE COPY OF ORDER DT.5.10.05 IN EP.3/05 IN O.S.64/03 OF MUNSIFF'S COURT, KANJIRAPPALLY.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.30478 OF 2005

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DATED THIS THE 7TH JUNE, 2007

J U D G M E N T

In this Writ Petition under Article 227 of the Constitution of India, the petitioner challenges **Ext**.P4 order passed by the learned Munsiff directing the petitioner's arrest on the basis that in spite of sufficient means, he has wilfully neglected to pay the decree-debt. The total E.P. claim was around Rs.46,000/- and pursuant to interim orders passed by this Court, the petitioner has paid Rs.20,000/- towards the decree-debt. The balance, according to the learned counsel for the petitioner, is only Rs.26,000/-. The above submission of the learned counsel is not resisted by the learned counsel for the respondent.

2. Gauging **Ext**.P4 by the parameters of visitorial jurisdiction under Article 227 of the Constitution, I do not find any warrant for setting aside **Ext**.P4. At the same time, noticing the fact that at least after this Writ Petition was filed, earnest efforts are being made by the petitioner to pay off the decree-debt, I am inclined to dispose of the Writ Petition directing that the order of stay presently passed will continue, provided the following conditions are complied with by the petitioner:-

The petitioner will pay to the respondent every month

commencing from 1st of July, 2007 at the rate of Rs.6000/-, till such time as the entire decree-debt is wiped off. Default of any instalment will result in forfeiture of the above benefit and under such an event, the impugned order will become operative. Once the petitioner feels that the entire decree-debt is wiped off, it is open to him to file necessary application before the court below for recording full satisfaction. If such an application is received, the court below will take a decision on that application after hearing both sides.

The Writ Petition is disposed of as above. No costs.

(PIUS C.KURIAKOSE, JUDGE)

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